REVENUE SECRETARIAT

Order No. RD 4 EST 78
Bangalore, dated 10th July 1980.

Whereas, Sira Taluk Education Society, Sira is a Society registered under Karnataka Societies Registration Act, 1960 (Karnataka Act 17 of 1960);

Whereas, the Government of Karnataka in their order No. RD 4 EST 78 dated 15th May 1980 appointed the Tahsildar, Sira Taluk, Sira as Administrator of the said Society for a period of 6 months or till such time as normally in the administration is restored, the General body meeting is convened and the elections to the governing body are held and administration is handed over to the new governing body, whichever is earlier.

Whereas, it is considered necessary to appoit the Assistant Commissoner, Madhugiri Sub-Division, Madhugiri as Administrator of the said Society.

Now, therefore, in exercise of the powers conferred by Section 27-A of the Karnataka Societies Registration Act 1960 (Karnataka Act 17 of 1960) and in partial modification of Government Order of even number dated 15th May 1980 the Government of Karnataka hereby appoints with immediate effect the Assistant Commissioner, Madhugiri Sub-Division, Madhugiri as the Administrator of the Sira Education Society, Sira, in place of the Tahsildar, Sira Taluk, Sira, till such time as normaley in the Administration is restored, the General body meeting is convened and the elections to the governing body are held and administration is handed over to the new governing body by the Assistant Commissioner, Madhugiri Sub-Division, Madhuigri, whichever is earlier.

By Order and in the name of the Governor of Karnataka,

S. M. RAMAHANUMAIAH,
Under Secretary to Government,
Revenue Department.

1509—S. O. 1742

Corrigendum No. RD 23 LRA 80
Bangalore, dated 11th July 1978.

For the name and address "Sri Prakash S/o Sri Udaychand, Ramakaran Mohla, Shorapur" corrected in the corrigendum No. RD 23 LRA 80 (P) dated 19th June 1980, "Sri Prakashchand S/o Sri Raghunathmal, Kabadgera Mohalla, Shorapur' shall be substituted.

By Order and in the name of the Governor of Karnataka,

H. N. RANGANATHAN,
Asst. Spl. Officer for Land Reforms & Ex-Officio
Under Secretary to Government,
Revenue Department.

1512—S. O. 1743

GOVERNMENT OF KARNATAKA

SOCIAL WELFARE AND LABOUR SECRETARIAT

Labour Dispute : Industrial dispute between the workmen and the management of Emmiganur Large Sized Co-operative Society Limited, Emmiganur, Bellary Taluk, Bellary District.

Award of the Presiding Officer, II Additional Labour Court, Bangalore published.

Read the following papers :

1. Letter No. Nil dated 30th April 1980 from Sri R. S. Naik, Presiding Officer, II Additional Labour Court, Bangalore.

BEFORE THE PRESIDING OFFICER, SECOND ADDITIONAL LABOUR COURT, BANGALORE-9.

Ref. No. 74/80 ... Old No. 296/79.

Dated 17th day of April, 1980.

Present :

Sri R. S. Naik, B.A., LL.B.

Presiding Officer

I Party.—

Sri T. M. Jadaiah, S/o Doddaiah, Emmiganur-583113, Bellary District.

II Party.—

The President, Emmiganur Large Sized Co-op., Society Ltd., Emmiganur, Bellary Taluk.

AWARD

The Government of Karnataka has been pleased to refer this case for adjudication to this Court after satisfying that an Industrial Disputes exists between the parties mentioned above. In the reference the points of disputes have been mentioned as follows :—

I. "Is the Management justified in terminating the services of Sri T. M. Jadaiah S/o Doddaiah, Emmiganur, Bellary Taluk and Districts with effect from 8th January 1979?

II. If not, to what relief the said workman is entitled?"

2. After taking this case on the file of this Court, notices, have been issued to both the parties and both the parties are on record represented by their respective Advocates.

3. The first party workman has filed his claim statement the sum and substance of which is as follows:—

4. The first party workman worked as a Clerk of the Second Party Society from the year, 1970 till 8th January 1979 and thereafter his services were terminated by the Second party, Management Society. His appointment itself was in accordance with all rules and regulations and was approved by the Assistant Registrar of Co-operative Societies, Bellary Division, Bellary.

5. The first party workman further contents that the termination of his services by the Second party Management Society was due to party factions that existed in the second party, Management Society and that the then authority of the Second party being under the impression that the first party workman belongs to opposite party and siding with the rival group. Capriciously and without any justfication and also without adhearing to the due course of process and law particularly to the natural justice removed him from service w. e. f. 8th January 1979.

6. It is also alleged in the claim petition by the first party workman that no domestic enquiry held at all and the termination of his service was wholly un-justified and illegal. While removing the first party workman from service the allegation that was imputed against him was that he mis-appropriated an amount of Rs.22,000/- from the Second party Management, Society.

7. The first party workman having pleaded that no fault of him he has been illegally and un-justifiably removed from service only due to the political party factions in the Village. He has prayed for the following reliefs in his claim statement :—

(1) to declare the suspension and termination as illegal and void of initio;

(2) to pass an order or re-instatement with all back wages and consequential monetary benefits;

(3) to Award damages taking into account the facts and circumstances of the case;

(4) to Award the entire costs this dispute.

8. As against this claim statement of the first party workman the Second party society in its counter statement has alleged and contended that the first party workman was removed from service after giving him one months notice for his gross and negligence in his duties and mis-appropriation comitted by him in respect of Society funds.

9. It is further contended in the counter statement that a due enquiry was held against the first party, workman for his misconduct and only after the receipt of enquiry report, he has been removed from service. It is also further stated that the first party workman has mis-appropriated the funds of the Second party Society to the tune of Rs. 22,000/- and as such the Second party Seciety was fully justified in removing his services.

10. *Interalia.* it is also contended in the counter-statement that this Court has no jurisdiction to adjudicate on this matter in view of a provision of Sec. 70 of the Karnataka Co-operative Societies Act, Further, it has been elucidated in the counter-statement that the povision of Section 70 (D) of the Karnataka Co-operative Societies Act have not been followed.

11. In view of the respective contension taken by these parties, the following issues have been framed:—

(1) Whether this Court has no jurisdiction under Section 70 of the Karnataka Co-operative Societies Act ?

(2) Whether any domestic enquiry was held against the I party Workman by the Society ?

(3) If so, whether the said domestic enquiry is proper legal and valid ?

(4) Whether the provision of Section 70(D) of the Karnataka Co-operative Societies Act have been followed-?

(5) Whether the Management was justified in terminating the services of Sri T.M. Jadaiah' S/o Doddaiah, Emmiganur Bellary Taluk, w. e. f. 8th January 1979 ?

(6) If not, what relief the said workman is entitled to ?".

12. Thereafter, this was set down for recording evidences of both the parties. The learned Advocate for the Second party Society reported in the open Court that he has no evidence to lead. On the other hand, the first party workman was examined himself as W. W-1 and has further relied upon the documentary evidence marked as Ex W1. Before analysing and narrating the brief account of his evidence it has to be noted here that the following facts are not in controvesy and are to be taken as admitted by both the parties.

(a) The first party workman is a workman employed by the IInd party Management and who is working under the Second party Management since from the year, 1970.

(b) He was working as a Sales Clerk of Insecticides, Seeds and Fertilisers under the Second Party, Management.

(c) The first party workman was suspended and subsequently terminated from the services by the Second party Management w. e. f. 8th January 1979.

Issue No. 1.

13. This case was pending before the I Additional Labour Court, Bangalore. Subsequently it was transferred by the Government by a Notification to this Court to adjudicate upon the said case. The learned Presiding Officer of the I Additional Labour Court had held that the Labour Court is having juridiction to adjudicate upon the matter and Section 70 of t' e Karnataka Co-operative Societies Act is no bar on this Court. Further, the Hon'ble Supreme Court of India had also held in a case before their lordships, reported in 1979 LAB J. C. Page 592 between the Gujarat State Co-operative Land Development Bank Ltd., V/s P. R. Mankad and another that the Labour Court are having jurisdiction to adjudicate on the disputes between a workman and the Management of C -operative Society and their lordship have further held as follows :—

> "166(1) Bar of jurisdiction of Courts : Save as expressly provided in this Act no Civil or Revenue Court shall have any jurisdiction in respect of—
>
> (a) .....
>
> (b) any dispute required to be referred to the Registrar or his nominee, or board of nominees, for decision".

14. It will be seen that Section 166, in terms, bars the jurisdiction only of Civil or Revenue Court, and not of the Labour Court or any Industrial Tribunal constituted under the B.I.R., Act or Industrial Disputes Act to adjudicate Industrial Disputes. It is clear that the Legislature never intended to outs the jurisdiction of the Labour Court or the Industrial Tribunal to determine claims and Industrial Disputes which cannot be adjudicate by the ordinary Civil Courts.

15. It is clear from the above judgement that there is no doubt regarding the jurisdiction of this Court on this reference. Hence, the first issue held as this Court is having jurisdiction to adjudicate on this dispute.

Issue Nos. 2 and 3

16. The Second party Management had contended in their Counter statement that a domastic enquiry was held against the first party workman before termination of the services of the first party woraman. On the other hand, the first party workman contends in his claim statement and also in the oral evidence that there was no enquiry either in connection with this case or in connection with any other case was held against him. The learned Counsel for the Second party had put a question to the workman in his cross examination that "whether any enquiry held against you". After obtaining a denial answer from the first party, the learned Counsel for the Second party Management have not confronted any documents

said to have been marked or relied upon by domestic enquiry said to have been held before termination of the workman. There is no documentary material placed before this Court for consideration. Regarding the domestic enquiry, said to have been held against the first party workman. Nothing prevented the Second party management to place in support of their contention regarding the existance of the domestic enquiry. Hence, it is clear on the available meterials before this Court that there was no domestic enquiry at all conducted by the Second party Management before terminating the services of the first party workman either regarding the alleged charges said to have been framed against the first party workman. Therefore, I am constrained to hold that there was no demestic enquiry against the first party workman as contended by the Second party management because mere averements without oral or documentary evidence in support of that, will not be sustained in law. Consequently, there is no necessity to answer the third issue.

Issue No. 4:

17. Regarding the issue No. 4, to substantiate the contention of the Second party Management they have not placed any oral or documentary material before this Court to consider whether they have followed the provisions under Section 70 (D) of the Karnataka Co-operative Societies Act. Hence, this Court have no other go but to hold this issue, against the Management.

Issue No. 5:

18. By reading of this issue, it is clear that the Second party Management has to prove and justify their action, terminating the fisrt party workman from his services with effect from 8th January 1979. The Second party Management have taken the contention of mis-appropriation of the Society funds and have raised loans by the first party workman in names of his mother, his wife and his Uncle and he has not paid the loan which was drawn by him. In addition to that they have contended that the first party workman had mis-appropriated the Societie's funds to an extent of Rs. 22,000/-The learned counsel for the Second party Management have submitted in the open Court that he has no evidence to lead on his side when an opportunity was offered by this Court to prove his contentions by adducing oral evidence, he never lead-in any evidence in support of the contentions of the Second party. Hence, the Second party has deleberately failed in establishing their case before this Court regarding mis-appropriation. In the counter-statement the Second party clearly states that only out of the charge of mis-appropriation against the first party workman, they have terminated the services of the first party workman. This mis-appropriation figure said to have been obtained from the audit report. The Second

party Management have not produced any document to substantiate any contentions made against the first party workman. On the other hand, the first party workman have produced a photostat copy of a letter written by the President of the Second party Management to the Secretary. Taluk Agricultural Produce Marketing Society Limited, Bellary and marked as Exhibit W-1 in the evidence of the first party workmen. In that letter the President have informed the Secretary to Taluk Agricultural Produce Marketing Soceity Limited, Bellary, that the first party workman have credited a sum of Rs. 22,000/- which was the alleged amount of mis-appropriation. As it already said, on this ground only, the secound Party Management have terminated the service of the first party workman. This part of evidence goes un-challenged in the cross-examination of the first party workman. Hence, it stands still.

19. Due to lack of material before this Court, I have no option except to hold that the action of the Second party terminated the services of the first party workman is not justified. Hence, I pass an award directing the Second party Management to re-instate the first party workman immediately in his original post with continity of the service with full back wages and other consequential with incidential fits there to, and I also pass an order imposing costs of Rs. 200/- towards this porooeedings, to be paid by the Second party Management to the first party workman.

(Dictated to stenographer, transcribed and typed by him and corrected by me).

R. S. NAIK,
Presiding Officer,
Second Additional Labour Court,
Bangalore.

Order No. SWL 166 LLA 80.

Bangalore, dated 12th June 1980.

Whereas by State Government Order No. SWL 433 LLD 79 dated 19th June 1979 the industrial dispute between the workmen and the management of Emmiganur Large Sized Co-operative Society Limited, Emmiganur, Bellary District was referred to the II Additional Labour Court, Bangalore for adjudication ;